

7 Ways The Obama Administration Has Accelerated Police Militarization

By Radley Balko
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There were signs that President Barack Obama might rein in the mass militarization of America's police forces after he won the White House. Policing is primarily a local issue, overseen by local authorities. But beginning in the late 1960s with President Richard Nixon, the federal government began instituting policies that gave federal authorities more power to fight the drug trade,



and to lure state and local policymakers into the anti-crime agenda of the administration in charge. These policies got a boost during Ronald Reagan's presidency, and then another during President Bill Clinton's years. Under President George W. Bush, all of those anti-drug policies continued, but were supplemented by new war on terrorism endeavors -- yet more efforts to make America's cops look, act and fight like soldiers.

But Obama might have been different. This, after all, was the man who, as a candidate for the U.S. Senate in 2004, declared the war on drugs an utter failure. As Reason magazine's Jacob Sullum wrote [in a 2011 critique of Obama's drug policy](#):

Obama stood apart from hard-line prohibitionists even when he began running for president. In 2007 and 2008, he bemoaned America's high incarceration rate, warned that the racially disproportionate impact of drug prohibition undermines legal equality, advocated a "public health" approach to drugs emphasizing treatment and training instead of prison, repeatedly indicated that he would take a more tolerant position regarding medical marijuana than George W. Bush, and criticized the Bush administration for twisting science to support policy -- a tendency that is nowhere more blatant than in the government's arbitrary distinctions among psychoactive substances.

Indeed, in his first interview after taking office, Obama's drug czar, Gil Kerlikowske, said that the administration would be toning down the martial rhetoric that had dominated federal drug policy since the Nixon years. "Regardless of how you try to explain to people it's a 'war on drugs' or a 'war on a product,' people see a war as a war on them," Kerlikowske [told The Wall Street Journal](#). "We're not at



war with people in this country."

This was an notable break from previous administrations. Rhetoric does matter, and for a generation in the U.S., cops had incessantly been told that they were in a war with drug offenders -- this, in a country where about half the adult population admits to having smoked marijuana.

Unfortunately, while not insignificant, the change in rhetoric has largely been only that. The Obama administration may no longer call it a "war," but there's no question that the White House is continuing to fight one. Here's a quick rundown of where and how Obama's policies have perpetuated the garrison state:

1. Pentagon Giveaways

In 1997, Congress added a section to a defense appropriations bill creating an agency to transfer surplus military gear to state and local police departments. Since then, millions of pieces of equipment designed for use on a battlefield -- such as tanks, bayonets, M-16s, and armored personnel carriers -- have been given to domestic police agencies for use on American streets, against American citizens.

Under Obama, this program has continued to flourish. In its October 2011 newsletter (motto: "From Warfighter to Crimefighter"), the agency that oversees the Pentagon giveaways boasted that fiscal 2011 was the most productive in the program's history. And by a large margin. "FY 11 has been a historic year for the program," wrote program manager Craig Barrett. "We reutilized more than \$500M, that is million with an M, worth of property in FY 11. This passes the previous mark by several hundred million dollars. ... Half a billion dollars in reutilization was a monumental achievement in FY 11."

2. Byrne Grants

In 1988, Congress created a new federal crime-fighting program called the Byrne grant, named for Edward Byrne, a New York City narcotics officer killed by a drug dealer. Over the years, these grants have created multi-jurisdictional anti-drug and anti-gang task forces all over the country. Because these task forces usually cover more than one jurisdiction, they often aren't fully accountable to, say, a police chief or an elected sheriff. Moreover, they're often funded either with additional Byrne grants, or with money seized in asset forfeiture proceedings. They can operate with little or no funding from the polities they police.

The results have been unsettling. These task forces have caused numerous deaths, been responsible for botched drug raids on the wrong houses, and have been implicated in corruption scandals. It was Byrne-funded task forces that were responsible for the debacles in Tulia and Hearne, Texas, about a

decade ago, in which dozens of people -- nearly all poor and black -- were wrongly raided, arrested and charged with drug crimes. One woman falsely charged in Hearne was Regina Kelly, subject of the movie "[American Violet](#)." In a 2007 interview, Kelly told me that the violent raids had been going on for years in Hearne before the task force was finally caught.

"They come on helicopters, military-style, SWAT style," Kelly said. "In the apartments I was living in, in the projects, there were a lot of children outside playing. They don't care. They throw kids on the ground, put guns to their heads. They're kicking in doors. They just don't care."

The George W. Bush administration had actually begun phasing out the Byrne program. It had been funded at a half-billion dollars per year through most of the Clinton presidency. By the time he left office in 2008, Bush had pared it to \$170 million a year. But the grants have long been a favorite of Vice President Joe Biden. And so Obama campaigned on fully restoring their funding, declaring that the Byrne grant program "has been critical to creating the anti-gang and anti-drug task forces our communities need." On that promise at least, he has delivered. As part of the 2009 American Recovery and Reinvestment Act, Obama infused the program with \$2 billion, by the far the largest budget in its history.

3. COPS Grants

The Community Oriented Policing Services, or COPS, program has followed a similar trajectory. Its aim is noble, at least in theory. Community policing is the idea that cops should be proactive, and consider themselves part of the communities they serve. They should know the names of school principals, be friendly with business owners, attend neighborhood meetings.

This isn't the definition of community policing held by many police officials. In the late 1990s, criminologist Peter Kraska found, for example, that many police chiefs consider frequent SWAT raids and similarly aggressive policing to be a core part of a community policing strategy. In fact, some said they considered sending SWAT teams to patrol entire neighborhoods to be sound community policing.

Moreover, police department budgets are fungible -- there's really no way to control how these grants are spent once they arrive at the police station. A 2001 report by the Madison Capital Times found that many Wisconsin police agencies that received COPS grants in the 1990s had in fact used them to start SWAT teams. When presented with these findings, one criminologist was aghast, telling the paper, "Community policing initiatives and stockpiling weapons and grenade launchers are totally incompatible."

Just as it had with Byrne grants, the Bush administration was phasing out the COPS program in the 2000s. But like the Byrne grants, COPS grants have long been a favorite of Biden. In fact, Biden often takes credit for creating the program, and claims it's responsible for the sharp drop in violent crime in America that began in the mid-1990s. (There's no evidence to support that contention, and a 2007 analysis in the peer-reviewed journal *Criminology* concluded "COPS spending had little to no effect on crime.")

And so Obama resurrected COPS, too. During his first year in office, he increased the program's budget by 250 percent.

4. DHS Anti-Terror Grants

The Department of Homeland Security has been giving its own grants to police agencies. These grants have been used to purchase military-grade equipment in the name of fighting terrorism. The grants are going to cities and towns all over America, including to unlikely terrorist targets like Fargo, N.D.; Fond du Lac, Wis.; and Canyon County, Idaho. Once they have a new armored personnel carrier, or new high-powered weapons, most of these police agencies then put them to use in more routine police work

-- usually drug raids.

[According to a 2011 report](#) by the Center for Investigative Reporting, the federal government has handed out \$34 billion in grants since Sept. 11, 2001. The grants have also given rise to contractors that now cater to police agencies looking to cash DHS checks in exchange for battle-grade gear. All of which means there's now an industry -- and inevitably a lobbying interest -- dedicated to perpetuating police militarization.

5. Medical Marijuana Raids

Despite campaign promises to the contrary, Obama has not only continued the Bush and Clinton administration policy of sending SWAT teams to raid medical marijuana growers, shops, and dispensaries in states that have legalized the drug, he appears to have significantly increased enforcement. Just two years into his presidency, Obama's administration had conducted about 150 such raids. The Bush administration conducted around 200 medical marijuana raids over eight years.

[Obama has also stepped up](#) the heavy-handed raids often used to enforce immigration laws. In 2012, his administration deported more people than in any prior year in American history. He's on pace to deport 2 million people by 2014, a figure equal to the total number of people ever deported from American until 1997.

6. Heavy-Handed Police Tactics

In 2011, an armed team of federal agents raided the floor of the Gibson guitar factory in Nashville, Tenn. The raid made national headlines and picked up traction in the the tea party movement, largely because it had been conducted to enforce the Lacey Act, a fairly obscure environmental law -- not the sort of policy most people would think would be enforced by armed federal agents. The same year, a SWAT team from the Department of Education conducted a morning raid of what they thought was the home of a woman who was suspected of defrauding federal student loan programs -- again, not the sort of crime usually associated with a SWAT action. (They also got the wrong house -- the suspect had moved out months earlier.)

The Obama administration has defended the use of aggressive, militaristic police actions in court. In the case [Avina v. U.S.](#), DEA agents pointed their guns at an 11-year-old and a 14-year-old during a drug raid on the wrong house. The agents had apparently mistaken the license plate of a suspected drug trafficker for the plate on a car owned by Thomas Avina. Obama's Justice Department argued in federal court that the lawsuit should be dismissed before being heard by a jury because the agents' actions were not unreasonable.

To be fair, the Justice Department almost always defends federal employees from lawsuits. And it seems likely that any other modern administration would do the same thing. But it wasn't always this way. In 1973, even the drug-warring Nixon administration fired, and then criminally indicted, 12 narcotics cops for raiding the wrong homes and terrorizing innocent families. Obama may be no different than Bush, Clinton, or his rivals for the presidency in defending drug cops who point guns at children during botched raids. But there was a time in America when even the original tough-on-crime administration was appalled enough at the idea to hold such overly zealous drug cops accountable.

7. Asset Forfeiture

Under the policy of civil asset forfeiture, the government can seize any cash, cars, houses, or other property that law enforcement can reasonably connect to a crime -- usually a drug crime. The owner of the property must then go to court to show that he legitimately earned or owns it. Often the owner is never actually charged with a crime. And often, these seizures are made against people suspected of low-level crimes, so the value of the property seized can be less than the costs and hassle of hiring an

attorney and going to court to win it back.

If the owner doesn't try to get his assets back, or if the court rules against him, asset forfeiture proceeds go to the police department that made the seizure. Critics say the policy creates perverse incentives for police to find drug connections that may not exist. But the policy has been lucrative for police agencies, and has been a huge contributor to the growth and use of SWAT teams to serve drug warrants. SWAT teams can be expensive to maintain. Instead of reserving them only for genuinely dangerous situations, asset forfeiture (along with Byrne grants) creates a strong incentive to send them on drug raids. A number of states have tried to curb forfeiture abuses by requiring that proceeds from seizures go to schools, or to a general fund. But under the Justice Department's equitable sharing program, a local police agency simply needs to ask the DEA for assistance with a raid. The operation then becomes federal, and is governed by federal law. The DOJ takes a cut of the assets, then sends a large percentage back to the local police agency, effectively getting around those state laws.

Under Obama, forfeiture has flourished. [According to a 2012 report](#) from the General Accounting Office, the Justice Department's forfeiture fund swelled to \$1.8 billion in 2011, the largest ever. That same year, equitable sharing payouts to local police agencies topped \$445 million, also a record.

Obama has fought for broad asset forfeiture powers in court, even for local governments. In the 2009 case [Alvarez v. Smith](#), the Obama administration defended a provision of Illinois' asset forfeiture law that allows police to seize property they believe is connected to drug activity with little evidence, then hold it for up to six months before the owner gets an opportunity to win it back in court. It's one of the harshest such laws in the country.

The argument could be made here that the Justice Department has a responsibility to defend law enforcement in court. But Obama has shown a willingness to back down from laws he opposes -- notably by instructing government attorneys to stop defending the Defense of Marriage Act from court challenges.

But even if one believes that the solicitor general has an obligation to defend federal law, this is a state law. Moreover, it's a state law that's actually harsher on property owners than corresponding federal laws. The Illinois law also applies only to property valued at less than \$20,000, meaning it disproportionately affects the poor. The Obama administration could have plausibly argued against the law, or simply not taken a position. Instead, Justice Department attorneys argued for it to be upheld. The Supreme Court ultimately dismissed the case without ruling on the law.

In many of these examples, Obama is merely continuing policies that began in previous administrations. And there are some areas where he has made progress, notably by apportioning a greater portion his anti-drug budget to treatment instead of enforcement. But in several of the examples above, he has actually stepped up the policies he inherited.

Obama the candidate made some unusually frank and critical statements about the drug war, incarceration, and the criminal justice system. His drug czar then showed some rare insight into the dangers of war rhetoric when discussing domestic policing. Obama the president has been more of the same, and in some cases worse.

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http://www.huffingtonpost.com/2013/07/10/obama-police-militarization_n_3566478.html

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